
Leasing Activities Information



U.S. Department of the Interior
Minerals Management Service
Alaska OCS Region

Lease Stipulations and Information to Lessees for Oil and Gas Lease Sale 191 Cook Inlet, May 2004

Lease Stipulations

Stipulation No. 1 – Protection of Fisheries

Stipulation No. 2 – Protection of Biological Resources

Stipulation No. 3 – Orientation Program

Stipulation No. 4 – Transportation of Hydrocarbons

Stipulation No. 1 – Protection of Fisheries: Exploration and development and production operations shall be conducted in a manner that avoids unreasonable conflicts with the fishing community and their gear (including, but not limited to, subsistence and sport- and commercial-fishing activities). Prior to submitting an Exploration Plan (EP) or Development and Production Plan (DPP), as required by 30 CFR 250.203 (b) 14 and 17, and 250.204 (b)(8)(C)(v)(g) and (9), the lessee shall review planned exploration and development activities, including plans for seismic surveys; drill rig transportation; mobilization, scheduling, and location of drilling unit and crew and supply boat routes; and other vessel traffic; with directly affected fishing organizations, subsistence communities, and port authorities to avoid unreasonable fishing gear conflicts.

The EP or DPP shall include a summary of fishing activities in the area of proposed operation, an assessment of effects on fishing from the proposed activity, and measures taken by the lessee to prevent unreasonable conflicts. This summary shall provide a method for identifying and publicizing the exploration and development activities to avoid possible conflicts. Local communities, including fishing interests, will have the opportunity to review and comment on proposed EP's and DPP's as part of the Minerals Management Service (MMS) regulatory review process pursuant to 30 CFR 250.203 and .204. The comments will be considered during MMS's decision to approve, disapprove, or require modification of the plan.

Lease-related use can be restricted if the Regional Supervisor, Field Operations (RSFO), determines that the lessee proposed measures will not prevent unreasonable conflicts. The RSFO

will work with directly affected parties to assure that potential conflicts are identified and efforts are taken to avoid these conflicts. These efforts could include timing operations to avoid fishing activities, such as drift net fisheries that generally take place north of Anchor Point between June 25 and August 5, or locating structures away from major rip currents where fishing activities may be denser. In order to avoid these conflicts, restrictions, including directional drilling, seasonal drilling, subsea completion techniques and other technologies deemed appropriate by the RSFO, may be required.

Stipulation No. 2 – Protection of Biological Resources: If biological populations or habitats that may require additional protection are identified in the lease area by the Regional Supervisor, Field Operations (RSFO), the RSFO may require the lessee to conduct biological surveys to determine the extent and composition of such biological populations or habitats. The RSFO shall give written notification to the lessee of the RSFO's decision to require such surveys. Based on any surveys that the RSFO may require of the lessee or on other information available to the RSFO on special biological resources, the RSFO may require the lessee to:

- Relocate the site of operations;
- Establish to the satisfaction of the RSFO, on the basis of a site-specific survey, either that such operations will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist;
- Operate during those periods of time, as established by the RSFO, that do not adversely affect the biological resources; and/or
- Modify operations to ensure that significant biological populations or habitats deserving protection are not adversely affected.

If any area of biological significance should be discovered during the conduct of any operations on the lease, the lessee shall immediately report such findings to the RSFO and make every reasonable effort to preserve and protect the biological resource from damage until the RSFO has given the lessee direction with respect to its protection. The lessee shall submit all data obtained in the course of biological surveys to the RSFO with the locational information for drilling or other activity. The lessee may take no action that might affect the biological populations or habitats surveyed until the RSFO provides written directions to the lessee with regard to permissible actions.

Stipulation No. 3 – Orientation Program: The lessee shall include in any exploration or development and production plans submitted under 30 CFR 250.203 and 250.204, a proposed orientation program for all personnel involved in exploration or development and production activities (including personnel of the lessee's agents, contractors, and subcontractors) for review and approval by the Regional Supervisor, Field Operations.

The program shall be designed in sufficient detail to inform individuals working on the project of specific types of environmental, social, and cultural concerns that relate to the area that could be affected by the operation or its employees. The program shall address the importance of not disturbing archaeological and biological resources and habitats, including endangered species, fisheries, bird colonies, and marine mammals, and provide guidance on how to avoid disturbance. The program shall be designed to increase the sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which such personnel will be

operating. The orientation program also shall include information concerning avoidance of conflicts with subsistence-, sport-, and commercial-fishing activities.

The program shall be attended at least once a year by all personnel involved in onsite exploration or development and production activities (including personnel of the lessee's agents, contractors, and subcontractors) and all supervisory and managerial personnel involved in lease activities of the lessee and its agents, contractors, and subcontractors. The lessee shall maintain a record of all personnel who attend the program onsite for so long as the site is active, not to exceed 3 years. This record shall include the name and date(s) of attendance of each attendee.

Stipulation No. 4 – Transportation of Hydrocarbons: Pipelines will be required:

- a) if pipeline rights-of-way can be determined and obtained;
- b) if laying such pipelines is technologically feasible and environmentally preferable; and
- c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple-use conflicts.

The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to recommendations of any recognized and established advisory groups and Federal, State, and local governments and industry.

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of an emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Regional Supervisor, Field Operations.

Information to Lessees

- (a) Bird and Marine Mammal Protection**
- (b) Endangered and Threatened Species**
- (c) Sensitive Areas to be Considered in Oil-Spill-Response Plans**
- (d) Oil-Spill-Response Preparedness**
- (e) Drilling Fluids and Cuttings Discharge During Post-Lease Activities**
- (f) Air-Quality Regulations and Standards**
- (g) Coastal Zone Management**
- (h) Navigation Safety**
- (i) Offshore Pipelines**

(a) Bird and Marine Mammal Protection: The MMS advises lessees that during the conduct of all activities related to leases issued as a result of this sale, the lessee and its agents, contractors, and subcontractors will be subject to the provisions of the following laws, among others:

- the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.);
- the Endangered Species Act, as amended (16 U.S.C. 1531 et seq.); and
- applicable International Treaties

Lessees and their contractors should be aware that disturbance of wildlife could be determined to constitute harm or harassment and, thereby, be in violation of existing laws and treaties. With respect to endangered species and marine mammals, disturbance could be determined to constitute a “taking” situation. Under the Endangered Species Act, the term “take” is defined to mean “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or to attempt to engage in such conduct.” Under the Marine Mammal Protection Act, “take” means “harass, hunt, capture, collect, or kill or attempt to harass, hunt, capture, or kill any marine mammal.” Violations under these Acts and applicable Treaties may be reported to the National Oceanic and Atmospheric Administration – Fisheries (NOAA – Fisheries) or the Fish and Wildlife Service, as appropriate.

Incidental taking of marine mammals and endangered and threatened species is allowed only when the statutory requirements of the Marine Mammal Protection Act, the Endangered Species Act, or both are met. Section 101(a)(5) of the Marine Mammal Protection Act allows for the taking of small numbers of marine mammals incidental to a specified activity within a specified geographical area. Section 7(b)(4) of the Endangered Species Act allows for the incidental taking of endangered and threatened species under certain circumstances. If a marine mammal species is listed as endangered or threatened under the Endangered Species Act, the requirements of both the Marine Mammal Protection Act and the Endangered Species Act must be met before the incidental take can be allowed.

Under the Marine Mammal Protection Act, the NOAA – Fisheries is responsible for species of the order Cetacea (whales and dolphins) and the suborder Pinnipedia (seals and sea lions) except walrus; the Fish and Wildlife Service is responsible in Alaskan waters for polar bears, sea otters, and walrus. Procedural regulations implementing the provisions of the Marine Mammal Protection Act are found at 50 CFR Part 18.27 for the Fish and Wildlife Service and at 50 CFR Part 216 for the NOAA – Fisheries.

Specific regulations must be applied for and in place and the Letters of Authorization must be obtained by those proposing the activity to allow the incidental take of marine mammals whether or not they are endangered or threatened. The regulatory process may require 1 year or longer.

Of particular concern is disturbance at major wildlife concentration areas, including bird colonies, marine mammal haulout and breeding areas, and wildlife refuges and parks. Lessees also are encouraged to confer with the Fish and Wildlife Service and the NOAA – Fisheries in planning transportation routes between support bases and lease holdings.

Lessees should exercise particular caution when operating in the vicinity of species whose populations are known or thought to be declining and that are not protected under the Endangered Species Act, specifically, marbled murrelet, Pacific harbor seals, beluga whales, and northern fur seals.

Generally, behavioral disturbance of most birds and mammals found in or near the lease area would be unlikely if aircraft and vessels maintain at least a 1-mile horizontal distance and aircraft maintain at least a 1,500-foot vertical distance above known or observed wildlife concentration areas, such as bird colonies and marine mammal haulout and breeding areas. Specifically, the NOAA – Fisheries recommends that aircraft should maintain flight separation distances of 1,500 feet vertical and 0.5 miles horizontal over all Steller sea lion habitats and haulouts identified in 50 CFR 226.202.

For the protection of endangered whales and marine mammals throughout the lease area, it is recommended that all aircraft operators maintain a minimum 1,500-foot altitude when in transit between support bases and exploration sites. Lessees and their contractors are encouraged to minimize or reroute trips to and from the leasehold by aircraft and vessels when endangered whales are likely to be in the area.

Human safety should take precedence at all times over these recommendations.

(b) Endangered and Threatened Species: The MMS advises lessees that the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) protects the following endangered or threatened species that may be in or adjacent to the lease sale area. Also, this ITL identifies candidate species for listing (those that may be proposed for listing or listed in the foreseeable future) in or near the area. The NOAA – Fisheries manages and protects the marine mammals with the exception of the sea otter. The Fish and Wildlife Service manages and protects sea otters and avian species.

The NOAA – Fisheries and the Fish and Wildlife Service will review exploration plans and development and production plans that you submit to the MMS to ensure the species listed below are protected. Please contact the NOAA – Fisheries or Fish and Wildlife Service regarding proposed operations and actions that might be taken to minimize interaction with the species.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Endangered Species Act Status</u>
Blue whale	<i>Balaenoptera musculus</i>	Endangered
Fin whale	<i>Balaenoptera physalus</i>	Endangered
Humpback whale	<i>Megaptera novaeangliae</i>	Endangered
Northern Right whale (Eastern North Pacific Stock) aka <i>Eubalaena glacialis</i>	<i>Eubalaena japonica</i>	Endangered
Sei whale	<i>Balaenoptera borealis</i>	Endangered
Sperm whale	<i>Physeter macrocephalus</i>	Endangered
Steller sea lion (Western U.S. stock)	<i>Eumetopias jubatus</i>	Endangered
Steller sea lion (Eastern U.S. stock)	<i>Eumetopias jubatus</i>	Threatened
Beluga whale (Cook Inlet stock)	<i>Delphinapterus leucas</i>	Candidate
Short-tailed albatross	<i>Phoebastria albatrus</i> (formerly <i>Diomedea albatrus</i>)	Endangered
Steller's eider (Alaska breeding population)	<i>Polysticta stelleri</i>	Threatened
Northern Sea Otter (Southwest Alaska distinct population segment)	<i>Enhydra lutris kenyoni</i>	Proposed

In addition, critical habitat for the Steller sea lion exists in the area; this habitat must also be protected. Please see 50 CFR § 226.202 for the area included in this critical habitat.

(c) **Sensitive Areas to be Considered in the Oil-Spill-Response Plans:** The MMS advises lessees that environmentally sensitive areas are valuable for their concentrations of marine birds, marine mammals, fishes, or other biological resources or cultural resources and should be considered when developing Oil-Spill-Response Plans.

Identified areas of special biological and cultural sensitivity include:

- Critical habitat for the Steller sea lion listed in 50 CFR 226.202
- Chisik and Duck Islands, Kamishak Bay, Kachemak Bay, the Barren Islands, Marmot Island, Tugidak Island, Chirikof Island, Puale Bay, and the Pye Islands all contain or are inhabited in whole or part by concentrations of biological resources that should be considered.

In addition,

- five National Wildlife Refuges (Alaska Maritime, Alaska Peninsula, Becharof, Kenai, Kodiak);
- Lake Clark National Park and Preserve;
- Aniakchak National Monument and Preserve;
- Katmai National Park and Preserve;
- McNeil River State Game Sanctuary;
- State Game Refuges (Trading Bay and McNeil River);
- Critical Habitat Areas (Kalgin Island, Clam Gulch, Fox River Flats, Kachemak Bay Tugidak Island, and Redoubt Bay);

- Alaska State Parks (Shuyak, Afognak Island, Kachemak Bay, and Kachemak Bay Wilderness Park); and
 - the Captain Cook State Recreation Area
- are located near or adjacent to the Cook Inlet Planning Area and also include important concentrations of biological resources which should be considered in developing the Oil-Spill-Response Plan. These areas are managed by the U.S. Fish and Wildlife Service, National Park Service, and State of Alaska, respectively.

National Historic Landmarks (Yukon Island Main site near Homer) have been identified as sensitive and should also be considered.

Areas Meriting Special Attention (AMSA): The Kenai Borough Coastal Management Plan has identified the following AMSA: Port Graham/English Bay Area.

Industry should consult with the Fish and Wildlife Service, the National Park Service, or State or Borough personnel to identify specific environmentally sensitive areas within national wildlife refuges, national park system units, or State special areas that should be considered when developing a project-specific Oil-Spill-Response Plan. In addition, lessees should be familiar with geographic response strategies (GRS) being produced by Federal, state, local and non-government entities under the Alaska Unified Plan for the Cook Inlet and Kodiak Subarea Contingency Plan.

These areas are among areas of special biological and cultural sensitivity to be considered in the oil spill response plan required by 30 CFR 254. Lessees are advised that they have the primary responsibility for identifying these areas in their plans and for providing specific protective measures. Additional areas of special biological and cultural sensitivity may be identified during review of exploration plans and development and production plans. Consideration should be given in Oil-Spill-Response Plans as to whether use of dispersants is an appropriate tactic in the vicinity of an area of special biological and cultural sensitivity. Lessees are advised that prior approval must be obtained before dispersants are used.

(d) Oil-Spill-Response Preparedness: The MMS advises lessees that they must be prepared to respond to oil spills which could occur as a result of offshore natural gas and oil exploration and development activities. With or prior to submitting a plan of exploration or a development and production plan, the lessee will submit for approval an Oil-Spill-Response Plan in accordance with 30 CFR 254. Of particular concern are sections of the Oil-Spill-Response Plan that address the following:

- potential spill size and trajectory,
- specific actions to be taken in the event of a spill,
- the location and appropriateness of oil-spill equipment, and
- the ability of the lessee to protect communities and important resources from adverse effects of a spill.

In addition, lessees will be required to conduct spill response drills that include deployment of equipment to demonstrate response preparedness for spills under realistic conditions.

(e) Drilling Fluids and Cuttings Discharge during Post-Lease Activities: The MMS advises lessees that the Environmental Protection Agency (EPA) prohibits discharge of drilling fluids and cuttings into marine waters unless authorized by an approved National Pollutant Discharge Elimination System (NPDES) permit. For Cook Inlet, if feasible, the EPA may require methods for disposing of drilling fluids and cuttings other than discharge into the marine environment. If discharge is authorized, you may be required by EPA to monitor the fate and effects of the discharge on the marine environment.

The MMS lease sale Environmental Impact Statement provides a thorough description and analysis of water quality and biological resources in the area. MMS will work with the EPA to examine the technically and economically feasible methods for disposal of drilling fluids and cuttings and their environmental effects during lease activities.

By agreement between the Department of the Interior and the EPA, the MMS may conduct NPDES permit compliance inspections of post-lease operations authorized under the Outer Continental Shelf Lands Act. Also, in accordance with 30 CFR 250.300 (b)(1), the MMS may restrict the rate of drilling fluid discharge or prescribe alternative discharge methods. The MMS may also restrict the use of components which could cause unreasonable degradation to the marine environment.

(f) Air-Quality Regulations and Standards: Under the provisions of the Clean Air Act (CAA) Amendments of 1990, the EPA has jurisdiction for air quality over the Cook Inlet OCS program area. Lease operators must comply with the EPA's requirements for OCS sources, including the provisions of Title I, Part C, of the CAA (Prevention of Significant Deterioration of Air Quality). Section 328 of the Act states that for a source located within 25 miles of the seaward boundary of a state, requirements would be the same as those that would apply if the source were located in the corresponding onshore area.

Federal regulations define air-quality standards in terms of maximum allowable concentrations of specific pollutants for various averaging periods. The standards include Prevention of Significant Deterioration (PSD) provisions for nitrogen dioxide, sulfur dioxide, and particulate matter less than 10 microns in diameter. The provisions limit deterioration of existing air quality that is better than that otherwise allowed by the standards (an attainment area). Maximum allowable increases in concentrations above a baseline level are specified for each PSD pollutant. PSD areas are ranked in three classes (I, II, and III). Class I, the most restrictive, which applies to certain national parks, monuments, and wilderness areas, allows the least degradation and restricts degradation of visibility.

Lessees are advised that a portion of the Alaska Maritime National Wildlife Refuge, the Tuxedni National Wilderness Area (designated by Public Law 91-504 which is composed of Chisik and Duck Islands), is the only Class I area adjacent to the Cook Inlet OCS program area.

Operators seeking an air quality permit for activities projected to result in emissions greater than 250 tons/year, need to submit a PSD analysis to EPA Region X. If the proposed activities are located within 100 kilometers of the Tuxedni PSD Class I area, the permit application is subject to review by the Fish and Wildlife Service, which in consultation with the EPA, will determine if

the proposed project will have an adverse impact on air quality related values, including visibility, in the area (see 40 CFR 51.166 (p) or 40 CFR 52.21 (p)). The operator should consult EPA Region X for guidance regarding the type of information that they require to be included in the permit application.

(g) Coastal Zone Management: The MMS advises lessees that under the Coastal Zone Management Act (16 U.S.C. 1451 et seq., Section 307), as amended, a state with an approved Coastal Zone Management (CZM) Plan reviews certain OCS activities to determine whether they will be conducted in a manner consistent with their approved CZM plan. This review authority is applicable to activities described in OCS exploration plans and development and production plans that affect any land or water use or natural resource within the state's coastal zone. Generally, the MMS may not issue a permit for activities described in a plan unless the state concurs or is conclusively presumed to have concurred that the plan is consistent with its CZM plan. In cases where concurrence is not given or presumed, the matter may be appealed to the Secretary of Commerce.

The Alaska Coastal Management Plan includes statewide standards found in 6 AAC 80 and enforceable policies found within approved coastal district programs. For the Cook Inlet OCS lease sales, the enforceable policies of the Kenai Peninsula, Kodiak Island, and Lake and Peninsula Boroughs Coastal Management Programs and the statewide standards are applicable.

In accordance with the requirements of 15 CFR 930.76(c), the MMS Alaska OCS Region sends copies of exploration plans and development and production plans, including the consistency certification and other necessary information, to the State of Alaska. State agencies and coastal districts adjacent to the activity review these plans for consistency with their Coastal Management Programs.

(h) Navigation Safety: Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the U.S. Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.), as amended, and the Deepwater Port Act (33 U.S.C. 1501-1524). For additional information, prospective bidders should contact the U.S. Coast Guard, 17th Coast Guard District, P.O. Box 3-5000, Juneau, Alaska 99802, (907) 586-7355.

U.S. Army Corps of Engineers permits are required for construction of artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act, as amended. For additional information, prospective bidders should contact the U.S. Army Corps of Engineers, Alaska District, Regulatory Branch (1145b), P.O. Box 898, Anchorage, Alaska 99506-0898, (907) 753-2724.

(i) Offshore Pipelines: Bidders are advised that the Department of the Interior and the Department of Transportation have entered into a Memorandum of Understanding, dated December 10, 1996, concerning the design, installation, operations, inspection, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.